



# Federal Register

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**Monday,  
April 26, 2010**

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**Part IV**

## **Department of Commerce**

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**Semiannual Regulatory Agenda**

## DEPARTMENT OF COMMERCE (DOC)

## DEPARTMENT OF COMMERCE

## Office of the Secretary

## 13 CFR Ch. III

## 15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

## 19 CFR Ch. III

## 37 CFR Chs. I, IV, and V

## 48 CFR Ch. 13

## 50 CFR Chs. II, III, IV, and VI

## Spring 2010 Semiannual Agenda of Regulations

**AGENCY:** Office of the Secretary, Commerce.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** In compliance with Executive Order 12866, entitled "Regulatory Planning and Review," and the Regulatory Flexibility Act, as amended, the Department of Commerce (Department), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development of review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the fall 2009 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's spring 2010 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 2010, through March 31, 2011.

**FOR FURTHER INFORMATION CONTACT:**

*Specific:* For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

*General:* Comments or inquiries of a general nature about the agenda should be directed to Tricia Choe, Acting Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-3151.

**SUPPLEMENTARY INFORMATION:** Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of January 15, 2010, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the spring 2010 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

In addition, beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Commerce's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the United Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including the Department of Commerce's Regulatory Plan.

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating

units, such as the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, an "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

**Explanation of Information Contained in NMFS Regulatory Entries**

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries that require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing may be conducted in a fishery in which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The Department's spring 2010 regulatory agenda follows.

**Cameron F. Kerry,**  
General Counsel.

## DOC

## International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
50	Commercial Availability of Fabric and Yarn .....	0625-AA59

## National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
51	Maximize Retention and Monitoring Program in the Shore-Based Pacific Whiting Fishery .....	0648-AR63
52	American Lobster Fishery; Fishing Effort Control Measures To Complement Interstate Lobster Management Recommendations by the Atlantic States Marine Fisheries Commission .....	0648-AT31
53	South Atlantic Fishery Ecosystem Plan Comprehensive Amendment .....	0648-AV31
54	Collection and Use of Tax Identification Numbers From Holders of and Applicants for National Marine Fisheries Service Permits .....	0648-AV76
55	Amendment 17 to the South Atlantic Fishery Management Council Snapper Grouper Fishery Management Plan ...	0648-AW11
56	Amendment 2 to the Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands .....	0648-AW15
57	Marine Mammal Protection Act Stranding Regulation Revisions .....	0648-AW22
58	Amendment 4 to the Atlantic Herring Fishery Management Plan .....	0648-AW75
59	Allowable Modifications to the Turtle Excluder Device (TED) Requirements .....	0648-AW93
60	Regulatory Amendment To Correct and Clarify Amendment 13 and Subsequent Frameworks of the Northeast Multispecies Fishery Management Plan .....	0648-AW95
61	Amendment 11 to the Atlantic Mackerel, Squid, Butterfish Fishery Management Plan .....	0648-AX05
62	Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs Arbitration Regulations .....	0648-AX47
63	Salmon Bycatch Reduction Management Measures for the Fishery Management Plan 91 in the Bering Sea Aleutian Islands .....	0648-AX89
64	Revoke Inactive Quota Share and Annual Individual Fishing Quota From a Holder of Quota Share Under the Pacific Halibut and Sablefish Fixed Gear Individual Fishing Quota Program .....	0648-AX91
65	2010 Summer Flounder, Scup, and Black Sea Bass Recreational Management Measures .....	0648-AY04
66	Maximized Retention Monitoring Program for Catcher Vessels in the Pacific Whiting Mothership Fishery in the Pacific Coast Groundfish Fishery .....	0648-AY17
67	Fisheries of the Caribbean, Gulf of Mexico, South Atlantic; Gulf of Mexico Fisheries; Generic Amendment for Annual Catch Limits .....	0648-AY22
68	Regulatory Amendment To Revise Charter Halibut Logbook Submission Requirements .....	0648-AY38
69	Addendum IV to the Weakfish Interstate Management Plan—Bycatch Trip Limit .....	0648-AY41
70	Framework 21 to the Atlantic Sea Scallop Fishery Management Plan .....	0648-AY43
71	Fishery Management Plan Amendment 95 for Skates Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands .....	0648-AY48
72	Amendment 2; Fishery Management Plan for Queen Conch Fishery of Puerto Rico and U.S. Virgin Islands, and Amendment 5; Reef Fish Fishery Management Plan of Puerto Rico and U.S. Virgin Islands .....	0648-AY55
73	Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Interim 2010 Tribal Whiting Regulations .....	0648-AY59
74	Fisheries Off West Coast States; West Coast Salmon Fisheries; 2010 Management Measures .....	0648-AY60
75	Marine Mammal Protection Act Permit Regulation Revisions .....	0648-AV82
76	Take and Import Marine Mammals: Proposed Rule for Take of Marine Mammals Incidental to Routine Operations of 13 Power Generating Stations in Central and Southern California .....	0648-AW59
77	Reduce Sea Turtle Bycatch in Atlantic Trawl Fisheries .....	0648-AY61

## National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
78	Certification of Nations Whose Fishing Vessels Are Engaged in IUU Fishing or Bycatch of Protected Living Marine Resources .....	0648-AV51
79	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) Environmental Review Procedure .....	0648-AV53
80	Revise Regulations Governing the North Pacific Groundfish Observer Program .....	0648-AW24

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## National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
81	Amendment 3 to the Northeast Skate Complex Fishery Management Plan .....	0648-AW30
82	Atlantic Highly Migratory Species; Atlantic Shark Management Measures .....	0648-AW65
83	Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico .....	0648-AX67
84	Snapper-Grouper Fishery Management Plan of the South Atlantic .....	0648-AX75
85	Framework Adjustment 44 and Specifications for the Northeast Multispecies Fishery Management Plan .....	0648-AY29
86	FY 2010 Atlantic Deep-Sea Red Crab Specifications .....	0648-AY51
87	Provide Regulations for Permits for Capture, Transport, Import, and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory .....	0648-AH26
88	Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act .....	0648-AV15
89	Rulemaking To Establish Take Prohibitions for the Threatened Southern Distinct Population Segment of North American Green Sturgeon .....	0648-AV94
90	Taking and Importing Marine Mammals; U.S. Naval Surface Warfare Center Panama City Division Mission Activities .....	0648-AW80
91	Rule To Revise the Critical Habitat Designation for the Endangered Leatherback Sea Turtle .....	0648-AX06
92	Critical Habitat Designation for Cook Inlet Beluga Whale Under the Endangered Species Act .....	0648-AX50
93	Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Training Operations Conducted Within the Gulf of Mexico Range Complex .....	0648-AX86

## National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
94	Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico .....	0648-AS65
95	Amendment 5 to the Atlantic Herring Fishery Management Plan .....	0648-AY47

## National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
96	Fisheries in the Western Pacific; Pelagic Fisheries; Squid Jig Fisheries .....	0648-AS71
97	Modifying Maximum Retainable Amounts (MRAs) for Selected Groundfish Species Caught by the Non-American Fishing Act Trawl Catcher Processor Sector .....	0648-AV32
98	Initial Implementation of the Western and Central Pacific Fisheries Convention Implementation Act .....	0648-AV63
99	Amendment 15B to the South Atlantic Fishery Management Council Snapper Grouper Fishery Management Plan .....	0648-AW12
100	Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Amendment 18 to the Pelagics Fishery Management Plan; Shallow-Set Longline Swordfish Fishery .....	0648-AW49
101	Halibut Charter Vessel Moratorium .....	0648-AW92
102	Atlantic Highly Migratory Species; 2009 North and South Atlantic Commercial Quotas .....	0648-AX07
103	Amendment 29 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico .....	0648-AX39
104	Western and Central Pacific Fisheries for Highly Migratory Species; Implementation of the Longline Catch Limits Adopted at the Fifth Session of the Western and Central Pacific Fisheries Commission .....	0648-AX59
105	Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Data Collection for the Trawl Rationalization Program .....	0648-AX98
106	Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan .....	0648-AY00
107	Fishing Restrictions in the Longline and Purse Seine Fisheries in the Eastern Pacific Ocean in 2009, 2010, and 2011 .....	0648-AY08
108	2010 Atlantic Mackerel, Squid, and Butterfish Fishery Specifications and Management Measures .....	0648-AY13
109	2010 Pacific Halibut Fisheries; Catch Sharing Plan .....	0648-AY31
110	Harbor Porpoise Take Reduction Plan Regulations .....	0648-AW51

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## Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
111	Revision of USPTO Fees for Fiscal Year 2011 .....	0651-AC43
112	Revision of USPTO Fees for Fiscal Year 2012 .....	0651-AC44

## Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
113	Interim Increase on Patent Fees for Fiscal Year 2011 .....	0651-AC42

## Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
114	Examination of Patent Applications That Include Claims Containing Alternative Language .....	0651-AC00
115	Fiscal Year 2009 Revision of Request for Continued Examination, 18-Month Publication, and Other Miscellaneous Cost-Recovery Patent Fees .....	0651-AC29

## Department of Commerce (DOC)

## Long-Term Actions

## International Trade Administration (ITA)

## 50. COMMERCIAL AVAILABILITY OF FABRIC AND YARN

**Legal Authority:** PL 106–200, sec 112(b)(5)(B); PL 106–200, sec 211; EO 13191; PL 107–210, sec 3103

**Abstract:** This rule implements certain provisions of the Trade and Development Act of 2000 (the Act). Title I of the Act (the African Growth and Opportunity Act or AGOA), title II of the Act (the United States-Caribbean Basin Trade Partnership Act or CBTPA), and title XXXI of the Trade Act of 2002 (the Andean Trade Promotion and Drug Eradication Act or ATPDEA) provide for quota- and duty-free treatment for qualifying apparel products from designated beneficiary countries. AGOA and CBTPA authorize quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise

assembled in one or more designated beneficiary countries from yarn or fabric that is not formed in the United States or a beneficiary country, provided it has been determined that such yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President has delegated to the Committee for the Implementation of Textile Agreements (the Committee), which is chaired by the Department of Commerce, the authority to determine whether yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA, the ATPDEA, and the CBTPA, and has authorized the Committee to extend quota- and duty-free treatment to apparel of such yarn or fabric. The rule provides the procedure for interested parties to

submit a request alleging that a yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner, the procedure for public comments, and relevant factors that will be considered in the Committee's determination. The rule also outlines the factors to be considered by the Committee in extending quota- and duty-free treatment.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Janet Heinzen  
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**RIN:** 0625-AA59

## Department of Commerce (DOC)

## Proposed Rule Stage

## National Oceanic and Atmospheric Administration (NOAA)

## NATIONAL MARINE FISHERIES SERVICE

## 51. MAXIMIZE RETENTION AND MONITORING PROGRAM IN THE SHORE-BASED PACIFIC WHITING FISHERY

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The Pacific Fishery Management Council (Pacific Council) at their October 21-25, 1996, meeting in San Francisco, California addressed the treatment and disposition of salmon in the groundfish trawl fisheries, specifically the shore-based whiting fishery. At that meeting, the Pacific Council discussed the retention of salmon in the shore-based whiting fishery and took action to maintain a viable shore-based whiting fishery by using exempted fishing permits (EFPs). These EFPs allowed the shore-based whiting fleet to temporarily deliver unsorted catch to processing plants and provided for the monitoring of incidentally taken salmon until a permanent monitoring program could be implemented. In keeping with the Pacific Council's recommendation, NMFS is proceeding with implementing a monitoring program for the shore-based whiting fishery. This action will aid in the sustainable management of Pacific Coast salmon and groundfish fisheries while providing an important economic opportunity to those associated with the harvest, processing, and selling of whiting taken by the shore-based whiting fleet. The need for implementing a permanent monitoring program in the shore-based Pacific whiting fishery is to provide for a full retention fishery by enabling the shore-based whiting fleet, comprised exclusively of catcher vessels, to deliver unsorted catch to processing plants. This practice is necessary to ensure that whiting landings are of market quality, while abiding by Federal groundfish regulations and those implementing the Pacific Coast salmon and groundfish fishery management plans (FMPs).

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	07/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Barry Thom, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 98115-0070  
Phone: 206 526-6150  
Fax: 206 526-6426  
Email: barry.thom@noaa.gov

**RIN:** 0648-AR63

## 52. AMERICAN LOBSTER FISHERY; FISHING EFFORT CONTROL MEASURES TO COMPLEMENT INTERSTATE LOBSTER MANAGEMENT RECOMMENDATIONS BY THE ATLANTIC STATES MARINE FISHERIES COMMISSION

**Legal Authority:** 16 USC 5101 et seq

**Abstract:** The National Marine Fisheries Service announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for the Exclusive Economic Zone (EEZ) associated with effort control measures as recommended for Federal implementation by the Atlantic States Marine Fisheries Commission (ASPMC), as outlined in the Interstate Fishery Management Plan (ISFMP) for American Lobster. This action will evaluate effort control measures in certain Lobster Conservation Management Areas including: limits on future access based on historic participation criteria; procedures to allow trap transfers among qualifiers and impose a trap reduction or conservation tax on any trap transfers; and a trap reduction schedule to meet the goals of the ISFMP.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/10/05	70 FR 24495
ANPRM Comment Period End	06/09/05	
NPRM	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
Phone: 978 281-9200  
Fax: 978 281-9117  
Email: pat.kurkul@noaa.gov

**RIN:** 0648-AT31

## 53. SOUTH ATLANTIC FISHERY ECOSYSTEM PLAN COMPREHENSIVE AMENDMENT

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The purpose of this action is to develop an ecosystem-based approach to resource management. The South Atlantic Council plans to develop a Fishery Ecosystem Plan (FEP) Comprehensive Amendment, which would modify all its Fishery Management Plans (FMPs). The initial amendment would include the following: (1) Various actions to comply with new essential fish habitat requirements; (2) establishment of deep water coral Habitat Areas of Particular Concern, with gear limitations, such as the establishment of allowable trawl areas; and (3) other possible actions necessary to implement ecosystem-based fishery management.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 570-5305  
Fax: 727 570-5583  
Email: roy.crabtree@noaa.gov

**RIN:** 0648-AV31

## 54. COLLECTION AND USE OF TAX IDENTIFICATION NUMBERS FROM HOLDERS OF AND APPLICANTS FOR NATIONAL MARINE FISHERIES SERVICE PERMITS

**Legal Authority:** 31 USC 7701; 16 USC 1801 et seq; 16 USC 1361 et seq; 16 USC 1531 et seq

**Abstract:** In conformance with the Debt Collection Improvement Act of 1996 (Debt Collection Act), the National Marine Fisheries Service (NMFS) will issue a rule to require that each existing holder of and future applicant for a permit, license, endorsement, authorization, transfer or like instrument issued by the agency provide a Taxpayer Identification Number (TIN) (business, employer identification number or individual,

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## Proposed Rule Stage

social security number) and Date of Incorporation or Date of Birth, as appropriate. Under the Debt Collection Act, NMFS is required to collect the TIN to report on and collect any delinquent non-tax debt owed to the Federal Government. NMFS plans to use Date of Incorporation or Date of Birth information for administrative aspects of permitting procedures with appropriate confidentiality safeguards pursuant to the Privacy Act. The rule will specify: (a) The particular uses that may be made of the reported TIN; (b) the effects, if any, of not providing the required information; (c) how the information will be used to ascertain if the permit holder or applicant owes delinquent non-tax debt to the Government pursuant to the Debt Collection Act; (d) the effects on the permit holder or applicant when such delinquent debts are owed; and (e) the agency's intended communications with the permit holder or applicant regarding the relationship of such delinquent debts to its permitting process and the need to resolve such debts as a basis for completing permit issuance or renewal. The rule will amend existing agency permit regulations and contain all appropriate modified and new collections-of-information pursuant to the Paperwork Reduction Act.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East-West Highway, Silver Spring, MD 20910  
Phone: 301 713-2334  
Fax: 301 713-0596  
Email: alan.risenhoover@noaa.gov  
**RIN:** 0648-AV76

**55. AMENDMENT 17 TO THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SNAPPER GROUPER FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801

**Abstract:** Amendment 17 is intended to establish management reference points (MSY, OY) for red snapper; establish a rebuilding plan (rebuilding

timeframe and rebuilding strategy) for red snapper; specify Annual Catch Limits (ACL), Annual Catch Targets (ACT), and Accountability Measures (AM) for 10 species undergoing overfishing; and modify management measures to ensure future catch is equal to or below the ACL.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 570-5305  
Fax: 727 570-5583  
Email: roy.crabtree@noaa.gov

**RIN:** 0648-AW11

**56. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS**

**Legal Authority:** 16 USC 1801

**Abstract:** St. Croix queen conch landings by commercial fishermen alone have exceeded sustainable harvest levels since the 2000-2001 fishing season. In 2005-2006, the commercial harvest was over four times sustainable levels. Additionally, there is an unknown but significant recreational harvest. Overfishing of queen conch has led to resource collapse in other regions and in some cases, long-term resource loss. According to the NMFS Report on the Status of the U.S. Fisheries for 2006, queen conch is overfished and undergoing overfishing. Under current fishing practices, reductions in mortality are not expected to be sufficient in the queen conch fishery. Without a reduction in mortality, queen conch are not expected to achieve the rebuilding goals established in the Sustainable Fisheries Amendment of 2005. Therefore, a change in fishing practices is needed to help achieve the necessary reductions in queen conch fishing mortality.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	10/11/07	72 FR 58057
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	
Final Action	08/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 570-5305  
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Email: roy.crabtree@noaa.gov

**RIN:** 0648-AW15

**57. MARINE MAMMAL PROTECTION ACT STRANDING REGULATION REVISIONS**

**Legal Authority:** 16 USC 1379; 16 USC 1382; 16 USC 1421

**Abstract:** The National Marine Fisheries Service (NMFS) is considering proposing changes to its implementing regulations (50 CFR 216) governing the taking of stranded marine mammals under section 109(h), section 112(c), and title IV of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to clarify the requirements and procedures for responding to stranded marine mammals and for determining the disposition of rehabilitated marine mammals, which includes the procedures for the placement of non-releasable animals and for authorizing the retention of releasable rehabilitated marine mammals for scientific research, enhancement, or public display. This action will be analyzed under the National Environmental Policy Act with an Environmental Assessment.

**Timetable:**

Action	Date	FR Cite
ANPRM	01/31/08	73 FR 5786
ANPRM Comment Period End	03/31/08	
NPRM	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** David Cottingham, Department of Commerce, National Oceanic and Atmospheric

## DOC—NOAA

## Proposed Rule Stage

Administration, 1315 East-West Highway, Silver Spring, MD 20910  
Phone: 301 713-2322  
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Email: david.cottingham@noaa.gov

RIN: 0648-AW22

**58. AMENDMENT 4 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The goal of Amendment 4 is to improve catch monitoring and ensure compliance with the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSRA). The management measures developed in this amendment may address one or more of the following objectives: (1) To implement measures to improve the long-term monitoring of catch (landings and bycatch) in the herring fishery; (2) to implement annual catch limits and accountability measures consistent with the MSRA; (3) to implement other management measures as necessary to ensure compliance with the new provisions of the MSRA; (4) to develop a sector allocation process or other limited access privilege program for the herring fishery; and (5) in the context of objectives 1-4 (above), to consider the health of the herring resource and the important role of herring as a forage fish and a predator fish throughout its range.

The New England Fishery Management Council will develop conservation and management measures to address the issues identified above and meet the goals/objectives of the amendment. Any conservation and management measures developed in this amendment also must comply with all applicable laws.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	05/08/08	73 FR 26082
Notice of Intent Comment Period End	06/30/08	
NPRM	05/00/10	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930

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RIN: 0648-AW75

**59. ALLOWABLE MODIFICATIONS TO THE TURTLE EXCLUDER DEVICE (TED) REQUIREMENTS**

**Legal Authority:** 16 USC 1531 et seq

**Abstract:** NMFS proposes to revise the TED requirements to allow new materials and modifications to existing approved TED designs. Specifically, proposed allowable modifications include the use of flat bar, box pipe, and oval pipe for use in currently-approved TED grids; an increase in mesh size on escape flaps from 1-5/8 inches to 2 inches; the use of the Boone single straight cut and triangular escape openings; specifications on the use of TED grid brace bars; and the use of the Chauvin Shrimp Kicker to improve shrimp retention.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	

**Regulatory Flexibility Analysis**  
**Required:** Yes

**Agency Contact:** Michael Barnette, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
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RIN: 0648-AW93

**60. REGULATORY AMENDMENT TO CORRECT AND CLARIFY AMENDMENT 13 AND SUBSEQUENT FRAMEWORKS OF THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** This action would make corrections and clarifications to the final rule implementing Amendment 13 to the Northeast Multispecies Fishery Management Plan, as well as subsequent groundfish actions. These corrections are administrative in nature and are intended to correct inaccurate references and other inadvertent errors and to clarify specific regulations to maintain consistency with the intent of Amendment 13 and subsequent actions.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	

**Regulatory Flexibility Analysis**  
**Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
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RIN: 0648-AW95

**61. AMENDMENT 11 TO THE ATLANTIC MACKEREL, SQUID, BUTTERFISH FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** Amendment 11 may consider: (1) Limited access in the Atlantic mackerel (mackerel) fishery; (2) implementation of annual catch limits (ACLs) and accountability measures (AMs) for mackerel and butterfish required under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA); (3) updating of the description and identification of essential fish habitat (EFH) for all life stages of mackerel, Loligo squid, Illex squid, and butterfish (including gear impacts on Loligo squid egg EFH); and (4) possible limitations on at-sea processing of mackerel.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	08/11/08	73 FR 46590
Notice of Intent Comment Period End	09/10/08	
NPRM	05/00/10	

**Regulatory Flexibility Analysis**  
**Required:** Yes

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## DOC—NOAA

## Proposed Rule Stage

**62. AMENDMENT 30 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA AND ALEUTIAN ISLANDS KING AND TANNER CRABS ARBITRATION REGULATIONS**

**Legal Authority:** 16 USC 1862; PL 109–241; PL 109–479

**Abstract:** The proposed action would implement Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs to make minor modifications to the arbitration system used to settle price and other disputes among harvesters and processors in the Bering Sea/Aleutian Islands crab rationalization program.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
Notice of Availability	05/00/10	
NPRM Comment Period End	06/00/10	
Notice of Availability Comment Period End	07/00/10	
Final Rule	11/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
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**RIN:** 0648–AX47

**63. SALMON BYCATCH REDUCTION MANAGEMENT MEASURES FOR THE FISHERY MANAGEMENT PLAN 91 IN THE BERING SEA ALEUTIAN ISLANDS**

**Legal Authority:** 16 USC 1801 et seq; 16 USC 3631 et seq; 16 USC 773 et seq; PL 108–447

**Abstract:** This fishery management plan amendment and rulemaking will implement the North Pacific Fishery Management Council's recommendations for management measures to minimize to the extent practicable Chinook salmon bycatch in the Bering Sea pollock fishery. These management measures provide two options for the pollock sectors (e.g., inshore catcher vessels, offshore catcher-processors, catcher vessels

delivering to motherships, or CDQ entities): fish under a lower Chinook salmon cap or participate in an incentive program and fish under a higher cap. Under the first option, the fleet as a whole may choose to fish under a transferable cap of 47,591 Chinook salmon, which would be allocated by season and sector. Once each sector reaches its specific cap, it would be prohibited from continuing to fish for pollock for the remainder of the season. Alternatively, vessels or CDQ entities may choose to participate in private contracts called incentive plan agreements (IPA) which would describe how participants would maintain low bycatch even when their bycatch levels are well below the hard cap approved. Those vessels or CDQ entities participating in an IPA would be allocated a transferable share of up to 60,000 Chinook salmon. This cap would be reduced for any vessels or CDQ entities not participating in an IPA and those vessels and CDQ entities would fish under a lower, non-transferable cap. In addition to the annual cap levels, if any sector operating under an IPA exceeds its proportion of 47,591 Chinook salmon three times in any seven-year period, the sector's maximum bycatch limit will be permanently reduced to its proportional share of the 47,591 cap. If the FMP amendments and proposed rule are approved, fishing under the new Chinook salmon bycatch management measures would start in 2011.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	02/18/10	75 FR 7228
NPRM	03/23/10	75 FR 14016
Notice of Availability Comment Period End	04/19/10	
NPRM Comment Period End	05/07/10	
Final Rule	11/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
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**RIN:** 0648–AX89

**64. REVOKE INACTIVE QUOTA SHARE AND ANNUAL INDIVIDUAL FISHING QUOTA FROM A HOLDER OF QUOTA SHARE UNDER THE PACIFIC HALIBUT AND SABLEFISH FIXED GEAR INDIVIDUAL FISHING QUOTA PROGRAM**

**Legal Authority:** 16 USC 1801 et seq; 16 USC 773 (Halibut Act)

**Abstract:** This action would amend existing commercial fishing regulations for the fixed-gear Pacific Halibut and sablefish individual fishing quota program at 50 CFR 679. The amendment would revoke inactive quota share unless the quota share permit holder affirmatively notifies NMFS in writing within 60 days of the agency's preliminary determination of inactivity that they choose to (a) retain the inactive IFQ quota share, (b) activate the quota share through transfer or by fishing, or (c) appeal the preliminary determination. Quota share that is not activated through this process and is revoked would be proportionally distributed to the quota share pool. This regulatory revision is based on the recommendations of the North Pacific Fishery Management Council in June 2006 and again in February 2009. Amending the regulations would improve the efficiency of the Pacific Halibut and Sablefish IFQ program and augment operational flexibility of participating fisherman.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	
Final Rule	11/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
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**RIN:** 0648–AX91

**65. 2010 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES**

**Legal Authority:** 16 USC 1801

## DOC—NOAA

## Proposed Rule Stage

**Abstract:** This action will propose and implement the 2010 recreational management measures (minimum fish size, fishing seasons, and possession limits) for the summer flounder, scup, and black sea bass fisheries.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
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**RIN:** 0648-AY04

**66. MAXIMIZED RETENTION MONITORING PROGRAM FOR CATCHER VESSELS IN THE PACIFIC WHITING MOTHERSHIP FISHERY IN THE PACIFIC COAST GROUND FISH FISHERY**

**Legal Authority:** 16 USC 1801

**Abstract:** The action would implement a monitoring program for catcher vessels in the mothership sector of the Pacific whiting fishery off the coast of Washington, Oregon, and California. The monitoring program would consist of a camera and other sensors to monitor fishing activity in order to maintain the integrity of the maximized retention requirements found at 50 CFR 660.306 (f)(7). Maximized retention encourages full retention of all catch while allowing minor discard events to occur. This ensures that unsorted catch is available for observers to monitor on board the mothership processors and thereby maintains the integrity of data collected under the observer program.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AY17

**67. FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, SOUTH ATLANTIC; GULF OF MEXICO FISHERIES; GENERIC AMENDMENT FOR ANNUAL CATCH LIMITS**

**Legal Authority:** 16 USC 1801

**Abstract:** The generic amendment is intended to modify five of the Council's Fishery Management Plan (FMPs). These include FMPs for: Reef Fish Resources, Shrimp, Stone Crab, Coral and Coral Reef Resources, and Red Drum. NMFS and the Council will develop these Annual Catch Limits (ACLs) in co-operation with the Scientific and Statistical Committee and the Southeast Fisheries Science Center. NMFS, in collaboration with the Council, will develop a DEIS to evaluate alternatives and actions for the ACLs. Some examples of these actions include: establishing sector specific ACLs, selecting levels of risk associated with species yields, considering removal or withdrawal of species from FMPs, and delegating species or species assemblages to state regulators.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	08/04/09	74 FR 47206
NPRM	11/00/10	
NPRM Comment	12/00/10	
Period End		

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AY22

**68. • REGULATORY AMENDMENT TO REVISE CHARTER HALIBUT LOGBOOK SUBMISSION REQUIREMENTS**

**Legal Authority:** 16 USC 2431 et seq; 31 USC 9701 et seq

**Abstract:** Clarifies and revises the charter halibut logbook submission requirements at 50 CFR part 300 to better match the submission schedule and reporting format of the Alaska Department of Fish and Game saltwater charter logbook.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
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**RIN:** 0648-AY38

**69. • ADDENDUM IV TO THE WEAKFISH INTERSTATE MANAGEMENT PLAN—BYCATCH TRIP LIMIT**

**Legal Authority:** 16 USC 5101

**Abstract:** NMFS takes this action to modify management restrictions in the Federal weakfish fishery in a manner consistent with the Commission's Weakfish Management Board's (Board) approved Addendum IV to Amendment 4 to the ISFMP for Weakfish. In short, the proposed Federal regulatory change would decrease the incidental catch allowance for weakfish in the EEZ in non-directed fisheries using smaller mesh sizes, from 150 pounds to no more than 100 pounds per day or trip, whichever is longer in duration. In addition it would impose a one fish possession limit on recreational fishers.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		

**Regulatory Flexibility Analysis**

**Required:** Yes

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## DOC—NOAA

## Proposed Rule Stage

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RIN: 0648-AY41

## 70. • FRAMEWORK 21 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** Framework Adjustment 21 to the Atlantic Sea Scallop Fishery Management Plan (Framework 21) will set specifications for the 2010 scallop fishing year, which begins March 1, 2010, including adjustments to the total allowable catch, days-at-sea (DAS) allocations, scallop access area rotation schedule, and access area trip allocations. This framework is for a single year because the Council is working on Amendment 15, which will establish a process for implementing annual catch limits that are required to be in place in 2011 for the scallop fishery. Framework 21 must also comply with the requirements of the March 14, 2008 (amended February 5, 2009), Biological Opinion completed for the Atlantic Sea Scallop fishery, which requires the amount of allocated scallop fishing effort by limited access DAS scallop vessels that can be used in the Mid-Atlantic to be limited during the time of year when sea turtle distribution overlaps with scallop fishing activity. In addition, Framework 21 considers minor adjustments to the limited access general category individual fishing quota program, scheduled to be implemented March 1, 2010, and the observer set-aside program.

### Timetable:

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
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RIN: 0648-AY43

## 71. • FISHERY MANAGEMENT PLAN AMENDMENT 95 FOR SKATES MANAGEMENT IN THE GROUND FISH FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS

**Legal Authority:** 16 USC 773 et seq; PL 108-447; PL 106-31; PL 106-554; PL 109-479; PL 105-277; 16 USC 1801; 16 USC 1540

**Abstract:** NMFS proposes regulations to implement Amendment 95 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). If approved, Amendment 95 would move skates from the "other species" category to the target species list in the FMP. By listing skates as target species, a directed fishery for skates in the Bering Sea and Aleutian Islands Management Area (BSAI) may be managed to reduce the potential for overfishing skates. This proposed action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

### Timetable:

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		
Final Action	11/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648-AY48

## 72. • AMENDMENT 2; FISHERY MANAGEMENT PLAN FOR QUEEN CONCH FISHERY OF PUERTO RICO AND U.S. VIRGIN ISLANDS, AND AMENDMENT 5; REEF FISH FISHERY MANAGEMENT PLAN OF PUERTO RICO AND U.S. VIRGIN ISLANDS

**Legal Authority:** 16 USC 1801

**Abstract:** The Magnuson-Stevens Fishery Conservation and Management Act (MSRA: Pub. L. 94-265), as amended through January 12, 2007, requires the establishment of annual

catch limits (ACLs) and accountability measures (AMs) during 2010 for all species that are considered to be overfished or undergoing overfishing. The present amendment is being promulgated to meet those MSRA mandates as well as to establish framework procedures with which to effect future changes to the management plan and to restructure the fisheries management units for grouper and snapper. Various alternatives are included in the draft amendment, including maintenance of the status quo for each action as well as various alternatives regarding the year-sequences used to establish ALCs and the strategies to be employed to account for overages and to respond to needed changes in management methods.

### Timetable:

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment	06/00/10	
Period End		

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648-AY55

## 73. • FISHERIES OFF WEST COAST STATES; PACIFIC COAST GROUND FISH FISHERY; INTERIM 2010 TRIBAL WHITING REGULATIONS

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** NMFS takes this action to establish an interim 2010 tribal whiting allocation, reporting and closure regulations, and refine existing regulations on tribal whiting reapportionment.

### Timetable:

Action	Date	FR Cite
NPRM	03/12/10	75 FR 11829
NPRM Comment	04/02/10	
Period End		
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

## DOC—NOAA

## Proposed Rule Stage

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**RIN:** 0648–AY59

#### 74. • FISHERIES OFF WEST COAST STATES; WEST COAST SALMON FISHERIES; 2010 MANAGEMENT MEASURES

**Legal Authority:** 16 USC 1854

**Abstract:** This final rule implements the 2010 annual management measures as approved by NMFS.

##### Timetable:

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	

##### Regulatory Flexibility Analysis

**Required:** Yes

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**RIN:** 0648–AY60

#### 75. MARINE MAMMAL PROTECTION ACT PERMIT REGULATION REVISIONS

**Legal Authority:** 16 USC 1374

**Abstract:** The National Marine Fisheries Service (NMFS) is considering changes to its implementing regulations (50 CFR 216) governing the issuance of permits for scientific research and enhancement activities under Section 104 of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to streamline and clarify general permitting requirements and requirements for scientific research and enhancement permits, simplify procedures for transferring marine mammal parts, possibly apply the General Authorization (GA) to research activities involving Level A harassment of non-endangered marine mammals,

and implement a “permit application cycle” for application submission and processing of all marine mammal permits. NMFS intends to write regulations for marine mammal photography permits and is considering whether this activity should be covered by the GA.

##### Timetable:

Action	Date	FR Cite
ANPRM	09/13/07	72 FR 52339
ANPRM Comment Period Extended	10/15/07	72 FR 58279
ANPRM Comment Period End	11/13/07	72 FR 52339
ANPRM Comment Period End	12/13/07	72 FR 58279
NPRM	05/00/10	

##### Regulatory Flexibility Analysis

**Required:** Yes

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**RIN:** 0648–AV82

#### 76. TAKE AND IMPORT MARINE MAMMALS: PROPOSED RULE FOR TAKE OF MARINE MAMMALS INCIDENTAL TO ROUTINE OPERATIONS OF 13 POWER GENERATING STATIONS IN CENTRAL AND SOUTHERN CALIFORNIA

**Legal Authority:** 16 USC 1361 et seq

**Abstract:** NMFS proposes to govern the take of marine mammals by Level A harassment (injury) and mortality from 13 power generating stations located on the coast of central and southern California incidental to routine power plant operations for a period of five years, under the authority of section 101(a)(5)(A) of the Marine Mammal Protection Act. Under that authority NMFS also must prescribe mitigation, monitoring, and reporting requirements in connection with take authorizations. Incidental takings of marine mammals, including California sea lions, harbor seals, and northern elephant seals can and do occur as a result of the operation of circulating water systems (CWS) by the electrical power generation plants located on the coast of central and southern California described in the incidental take authorization applications. These CWS

are an integral part of these power stations that provide continuous cooling water necessary for power generation and safety of the facility. The typical location of entrainment occurs as water is taken into the plant via submerged structures or canals. Intake velocities may be strong enough to pull live animals into the plant, particularly if they are actively seeking prey in the vicinity of intake structures. Confinement within intake plumbing could lead to confusion and panic, especially for young, immature animals. If the animal is unable to escape, it could (1) Drown or become fatally injured in transit between intake and large sedimentation basins within the plants known as forebays; (2) survive the transit and succumb in the forebay due to exhaustion, illness, or disease; or (3) survive the transit and be rescued by plant personnel using cages specially designed for such an activity. It is also likely that previously dead animals may end up entrained as well.

##### Timetable:

Action	Date	FR Cite
NPRM	05/00/10	

##### Regulatory Flexibility Analysis

**Required:** Yes

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**RIN:** 0648–AW59

#### 77. • REDUCE SEA TURTLE BYCATCH IN ATLANTIC TRAWL FISHERIES

**Legal Authority:** 16 USC 1531 et seq

**Abstract:** NMFS is initiating a rulemaking action to reduce injury and mortality to endangered and threatened sea turtles resulting from incidental take, or bycatch, in trawl fisheries in the Atlantic waters. NMFS will likely address the size of the turtle excluder device (TED) escape opening currently required in the summer flounder trawl fishery, the definition of a summer flounder trawler and the use of TEDS in this fishery; the use of TEDs in the croaker and weakfish flynet, whelk, Atlantic sea scallop, and calico scallop trawl fisheries of the Atlantic Ocean; and new seasonal and temporal

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## Proposed Rule Stage

boundaries for TED requirements. In addition, this rule will address the definition of the Gulf Area applicable to the shrimp trawl fishery in the southeast Atlantic and Gulf of Mexico. The purpose of the rule is to aid in the protection and recovery of listed sea turtle populations by reducing mortality in trawl fisheries through the use of TEDs.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AY61

## Department of Commerce (DOC)

## Final Rule Stage

## National Oceanic and Atmospheric Administration (NOAA)

**NATIONAL MARINE FISHERIES SERVICE****78. CERTIFICATION OF NATIONS WHOSE FISHING VESSELS ARE ENGAGED IN IUU FISHING OR BYCATCH OF PROTECTED LIVING MARINE RESOURCES**

**Legal Authority:** 16 USC 1801 et seq; 16 USC 1826d to 1826k

**Abstract:** The National Marine Fisheries Service (NMFS) is establishing a process of identification and certification to address illegal, unreported, or unregulated (IUU) activities and bycatch of protected species in international fisheries. Nations whose fishing vessels engage, or have been engaged, in IUU fishing or bycatch of protected living marine resources would be identified in a biennial report to Congress, as required under section 403 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006. NMFS would subsequently certify whether identified nations have taken appropriate corrective action with respect to the activities of its fishing vessels, as required under section 403 of MSRA.

**Timetable:**

Action	Date	FR Cite
ANPRM	06/11/07	72 FR 33436
ANPRM Comment Period End	07/05/07	
NPRM	01/14/09	74 FR 2019
NPRM Comment Period End	05/14/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AV51

**79. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT REAUTHORIZATION ACT (MSRA) ENVIRONMENTAL REVIEW PROCEDURE**

**Legal Authority:** 16 USC 1801

**Abstract:** Section 107 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) (Pub. L. 109-479) requires NOAA Fisheries to revise and update agency procedures for complying with the National Environmental Policy Act (NEPA) in the context of fishery management actions. It further requires that NOAA Fisheries consult with the Council on Environmental Quality (CEQ) and the Regional Fishery Management Councils (Councils) and involve the public in the development of the revised procedures. The MSRA provides that the resulting procedures will be the sole environmental impact assessment procedure for fishery management actions, and that they must conform to the time lines for review and approval of fishery management plans and plan amendments. They must also integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear, and concise analysis that is useful to decision makers and the public, reduce

extraneous paperwork, and effectively involve the public.

NOAA Fisheries is currently consulting with the councils, the public and CEQ to develop a proposed procedure.

**Timetable:**

Action	Date	FR Cite
NPRM	05/14/08	73 FR 27998
NPRM Comment Period End	06/13/08	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AV53

**80. REVISE REGULATIONS GOVERNING THE NORTH PACIFIC GROUND FISH OBSERVER PROGRAM**

**Legal Authority:** 118 Stat 110; 16 USC 773 et seq; 16 USC 1801 et seq; 16 USC 3631 et seq; PL 108-199

**Abstract:** This rulemaking revises Federal regulations relevant to numerous administrative and procedural requirements applicable to observer providers, observers, and industry participating in the North Pacific Groundfish Observer Program. Specifically, this action would: Modify the current permit issuance process so that observer and observer provider permit issuance is a discretionary National Marine Fisheries Service (NMFS) decision; amend current Federal regulations addressing observer behavior involving drugs, alcohol, and physical sexual conduct to remove NMFS oversight of observer behavior

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that does not affect job performance; require that observer providers submit policies related to these activities and continue to notify NMFS upon learning of an incident; revise Federal regulations so that observer providers are allowed to provide observers or technical staff for purposes of exempted fishing permits, scientific research permits, or other scientific research activities; revise the definition of “fishing day” in Federal regulations; require observer providers to annually submit detailed economic information to NMFS; specify a date by which observers who have collected data in the previous fishing year would be required to be available for debriefing; and implement housekeeping issues related to errors or clarifications in existing regulations at 50 CFR 679.50.

**Timetable:**

Action	Date	FR Cite
NPRM	09/30/09	74 FR 50155
NPRM Comment Period End	10/31/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required: Yes**

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**RIN:** 0648-AW24

**81. AMENDMENT 3 TO THE NORTHEAST SKATE COMPLEX FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801

**Abstract:** NMFS proposes regulations to implement measures in Amendment 3 to the Northeast Skate Complex Fishery Management Plan (Skate FMP). Amendment 3 was developed by the New England Fishery Management Council (Council) to rebuild overfished skate stocks (thorny and smooth skates) and implement annual catch limits (ACLs) and accountability measures (AMs) consistent with the requirements of the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. Amendment 3 would establish an ACL and annual catch target (ACT) for the skate complex, total allowable landings (TAL) for the skate wing and

bait fisheries, seasonal quotas for the bait fishery, reduced possession limits, in-season possession limit triggers, and other measures to improve management of the skate fisheries. This rule also includes skate fishery specifications for fishing years (FY) 2010 through 2011.

**Timetable:**

Action	Date	FR Cite
NPRM	01/21/10	75 FR 3434
NPRM Comment Period End	02/22/10	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required: Yes**

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**RIN:** 0648-AW30

**82. ATLANTIC HIGHLY MIGRATORY SPECIES; ATLANTIC SHARK MANAGEMENT MEASURES**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** This rule evaluates the management measures for small coastal sharks (SCS) based on the results of the 2007 SCS stock assessment. This rulemaking could consider, among other things, commercial quotas and trip limits, recreational minimum size and bag limits, time/area closures, and the public display quota. In addition, this rule implements a rebuilding plan for blacknose sharks. To the extent that blacknose sharks are caught in fisheries that are not targeted highly migratory species fisheries, the National Marine Fisheries Service (NMFS) will work with the appropriate Regional Fishery Management Council, Interstate Commission, and States to implement regulations through their processes to rebuild blacknose sharks. This action is necessary in light of recent stock assessments, which have determined that blacknose sharks are overfished with overfishing occurring. As needed, this rule may include others items to clarify existing regulations.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	05/07/08	73 FR 25665

Action	Date	FR Cite
Notice of Scoping Meetings and Extension of Comment Period	07/02/08	73 FR 37932
Notice of Intent Comment Period End	08/05/08	
Notice of Intent Comment Period Extended—Second Extension	10/29/08	73 FR 64307
Notice of Intent Comment Period Extension End	10/31/08	
Second Extension Comment Period End	11/14/08	
NPRM	07/24/09	74 FR 36892
NPRM Comment Period Extended	08/10/09	74 FR 39914
NPRM Comment Period End	09/22/09	
NPRM Comment Period Extended End	09/25/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required: Yes**

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**RIN:** 0648-AW65

**83. AMENDMENT 31 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO**

**Legal Authority:** 16 USC 1801

**Abstract:** In September 2008, NOAA's National Marine Fisheries Service (NMFS) released a report based on observer data that indicated the total number of loggerhead sea turtle takes by the eastern Gulf of Mexico reef fish bottom longline fishery was much greater than that authorized in the most recent biological opinion. In response, the Gulf of Mexico Fishery Management Council (Council) requested NMFS take emergency action to reduce the number of takes by the fishery during the short term while the Council develops long-term measures in Amendment 31. Measures being considered include: (1) Modifying baits; (2) area, season, and depth restrictions;

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(3) reducing effort through a longline endorsement program; and (4) using observers or electronic monitoring to close the fishery once a sea turtle take threshold has been met.

**Timetable:**

Action	Date	FR Cite
NPRM	01/15/10	75 FR 2469
NPRM Comment Period End	03/01/10	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AX67

**84. SNAPPER-GROUPER FISHERY MANAGEMENT PLAN OF THE SOUTH ATLANTIC**

**Legal Authority:** 16 USC 1801

**Abstract:** This action would implement a prohibition on the harvest of red snapper for 180 days to address overfishing of red snapper, through interim measures.

**Timetable:**

Action	Date	FR Cite
NPRM	07/06/09	74 FR 31906
NPRM Comment Period End	08/05/09	
Final Action	12/04/09	74 FR 63673
Final Action Effective	01/04/10	
Extension of Final Action	06/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AX75

**85. • FRAMEWORK ADJUSTMENT 44 AND SPECIFICATIONS FOR THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801

**Abstract:** Framework Adjustment 44 and Specifications will modify management measures for the Northeast (NE) Multispecies Fishery Management Plan (FMP) to make the FMP more precautionary, and implement Annual Catch Limit (ACL) specifications for the fishery for fishing years 2010, 2011, and 2012.

**Timetable:**

Action	Date	FR Cite
NPRM	02/01/10	75 FR 5016
NPRM Comment Period End	03/01/10	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AY29

**86. • FY 2010 ATLANTIC DEEP-SEA RED CRAB SPECIFICATIONS**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** NMFS takes this action to establish the target total allowable catch and days-at-sea allocation for FY 2010 for the red crab fishery.

**Timetable:**

Action	Date	FR Cite
NPRM	02/19/10	75 FR 7435
NPRM Comment Period End	03/22/10	
Final Action	05/00/10	
Final Action Effective	06/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AY51

**87. PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT, AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY**

**Legal Authority:** 16 USC 1372(c)

**Abstract:** This rule will revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

**Timetable:**

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35209
NPRM Comment Period Extended	08/22/01	66 FR 44109
NPRM Comment Period End	09/04/01	
Comment Period Extended	11/02/01	
Final Action	11/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AH26

**88. PROTECTIVE REGULATIONS FOR KILLER WHALES IN THE NORTHWEST REGION UNDER THE ENDANGERED SPECIES ACT AND MARINE MAMMAL PROTECTION ACT**

**Legal Authority:** 16 USC 1361 et seq; 16 USC 1531 to 1543

**Abstract:** The National Marine Fisheries Service (NMFS) is considering whether to propose regulations to protect killer whales (*Orcinus orca*) in the Pacific Northwest. The Southern Resident killer whale distinct population segment (DPS) was listed as endangered under the Endangered Species Act (ESA) on November 18,

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2005 (70 FR 69903). In the final rule announcing the listing, NMFS identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Both the Marine Mammal Protection Act (MMPA) and the ESA prohibit take, including harassment, of killer whales, but these statutes do not prohibit specified acts. NMFS is now considering whether to propose regulations that would prohibit certain acts, under our general authorities under the ESA and MMPA and their implementing regulations. The Proposed Recovery Plan for Southern Resident killer whales (71 FR 69101; November 29, 2006) includes as a management action the evaluation of current guidelines and the need for regulations and/or protected areas. The scope of this ANPR encompasses the activities of any person or conveyance that may result in the unauthorized taking of killer whales and/or that may cause detrimental individual-level and population-level impacts. NMFS requests comments on whether—and if so, what type of—conservation measures, regulations, and, if necessary, other measures would be appropriate to protect killer whales from the effects of these activities.

**Timetable:**

Action	Date	FR Cite
ANPRM	03/22/07	72 FR 13464
ANPRM Comment Period End	04/23/07	
NPRM	07/29/09	74 FR 37674
NPRM Comment Period Extended	10/19/09	74 FR 53454
NPRM Comment Period End	10/27/09	
NPRM Extended Comment Period End	01/15/10	
Final Rule	05/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV15**89. RULEMAKING TO ESTABLISH TAKE PROHIBITIONS FOR THE THREATENED SOUTHERN DISTINCT POPULATION SEGMENT OF NORTH AMERICAN GREEN STURGEON****Legal Authority:** 16 USC 1531 to 1543

**Abstract:** Under section 4(d) of the Federal Endangered Species Act (ESA), the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. This rule would apply the prohibitions under ESA section 9(a)(1)(A) through 9(a)(1)(G) for threatened Southern DPS green sturgeon, but would include certain exceptions and exemptions from the take prohibitions. Exceptions are included for certain scientific research, emergency fish rescue, law enforcement, and habitat restoration activities that meet the criteria specified in the protective regulations under Section 4(d) of the ESA for Southern DPS green sturgeon. Exemptions are included for state scientific research, fisheries activities, and tribal activities conducted under NMFS approved ESA 4(d) programs. Thus, take of Southern DPS fish may be authorized under ESA section 7 or 10, or under an exception or exemption to the take prohibitions if the activities are conducted in compliance with NMFS criteria or NMFS-approved plans.

**Timetable:**

Action	Date	FR Cite
NPRM	05/21/09	74 FR 23822
NPRM Comment Period End	07/20/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV94**90. TAKING AND IMPORTING MARINE MAMMALS; U.S. NAVAL SURFACE WARFARE CENTER PANAMA CITY DIVISION MISSION ACTIVITIES****Legal Authority:** 16 USC 1361 et seq

**Abstract:** On April 3, 2008, the National Marine Fisheries Service (NMFS) received an application from the Navy requesting an authorization for the take of 15 species/stocks of cetacean incidental to the proposed mission activities in the Naval Surface Warfare Center Panama City Division (NSWC PCD) study area over the course of 5 years. These mission activities are classified as military readiness activities. The purpose of the proposed mission activities is to enhance NSWC PCD's capability and capacity to meet littoral and expeditionary warfare requirements by providing Research, Development, Test, and Evaluation (RDT&E) and in service engineering for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime operations, and coastal operations. The Navy states that these training activities may cause various impacts to marine mammal species in the NSWC PCD study area. The Navy requests an authorization to take individuals of these cetacean species by Level B Harassment. Further, the Navy requests an authorization to take 1 individual each of bottlenose, Atlantic spotted, and pantropical spotted dolphins per year by injury, as a result of the proposed mission activities.

NMFS is issuing a proposed rule to govern the take of these marine mammals by Level B harassment (behavior) and Level A harassment (injury) incidental to the aforementioned mission activities in the Naval NSWC PCD study area for a period of five years, under the authority of section 101(a)(5)(A) of the Marine Mammal Protection Act. Under that authority NMFS also must prescribe mitigation, monitoring, and reporting requirements in connection with take authorizations.

**Timetable:**

Action	Date	FR Cite
NPRM	04/30/09	74 FR 20156
NPRM Comment Period End	06/01/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

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RIN: 0648–AW80

**91. RULE TO REVISE THE CRITICAL HABITAT DESIGNATION FOR THE ENDANGERED LEATHERBACK SEA TURTLE****Legal Authority:** 16 USC 1531 et seq

**Abstract:** The National Marine Fisheries Service, announces a rule to revise leatherback turtle (*Dermochelys coriacea*) critical habitat under the Endangered Species Act of 1973, as amended. The leatherback is currently listed as endangered throughout its range, and critical habitat consists of Sandy Point Beach and adjacent waters, St. Croix, U.S. Virgin Islands. This rule would revise critical habitat to include waters along the U.S. West Coast.

**Timetable:**

Action	Date	FR Cite
NPRM	01/05/10	75 FR 319
NPRM Comment Period Extension	02/19/10	75 FR 7434
NPRM Comment Period End	03/08/10	
NPRM Comment Period Extension End	04/19/10	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648–AX06

**92. CRITICAL HABITAT DESIGNATION FOR COOK INLET BELUGA WHALE UNDER THE ENDANGERED SPECIES ACT****Legal Authority:** 16 USC 1531 et seq

**Abstract:** The National Marine Fisheries Service (NMFS) listed the Cook Inlet beluga whale Distinct Population Segment as endangered under the Endangered Species Act on October 17, 2009. NMFS is required to designate critical habitat no later than one year after the publication of a listing. NMFS intends to publish a proposed rule by October 17, 2009.

**Timetable:**

Action	Date	FR Cite
ANPRM	04/14/09	74 FR 17131
ANPRM Comment Period End	05/14/09	
NPRM	12/02/09	74 FR 63080
NPRM Comment Period Extended	01/12/10	75 FR 1582
NPRM Comment Period End	02/01/10	
Final Action	12/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648–AX50

**93. TAKING OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES; TAKING MARINE MAMMALS INCIDENTAL TO TRAINING OPERATIONS CONDUCTED WITHIN THE GULF OF MEXICO RANGE COMPLEX****Legal Authority:** 16 USC 1361 et seq

**Abstract:** NMFS has received requests from the U.S. Navy (Navy) for authorizations for the taking of marine mammals incidental to training and operational activities conducted by the Navy's Atlantic Fleet within Gulf of Mexico (GOMEX) Range Complex for the period beginning December 3, 2009, and ending December 2, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take and requesting information, suggestions, and comments on these proposed regulations.

**Timetable:**

Action	Date	FR Cite
NPRM	07/14/09	74 FR 33960
NPRM Comment Period End	08/13/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648–AX86

## Department of Commerce (DOC)

## Long-Term Actions

## National Oceanic and Atmospheric Administration (NOAA)

**NATIONAL MARINE FISHERIES SERVICE****94. FISHERY MANAGEMENT PLAN FOR REGULATING OFFSHORE MARINE AQUACULTURE IN THE GULF OF MEXICO****Legal Authority:** 16 USC 1801 et seq

**Abstract:** The purpose of the amendment is to develop a regulatory permitting process for regulating and

promoting environmentally sound and economically sustainable aquaculture in the Gulf Exclusive Economic Zone. Management actions include: (1) Types of aquaculture permits required; (2) duration aquaculture permits are effective; (3) conditions for permit issuance; (4) species allowed for aquaculture; (5) allowable aquaculture systems; (6) siting requirements and conditions; (7) restricted access zones for aquaculture facilities; (8) recordkeeping and reporting

requirements; (9) biological reference points and status determination criteria; and (10) framework procedures for modifying status determination criteria and regulatory measures.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	06/04/09	74 FR 26829
Notice of Availability Comment Period End	08/03/09	
NPRM	To Be	Determined

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## Long-Term Actions

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Roy Crabtree

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**RIN:** 0648-AS65**95. • AMENDMENT 5 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN****Legal Authority:** 16 USC 1801

**Abstract:** Amendment 5 to the Atlantic Herring Fishery Management Plan will consider: catch monitoring program; interactions with river herring; access by herring midwater trawl vessels in groundfish closed areas; and interactions with the mackerel fishery.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/11	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AY47

## Department of Commerce (DOC)

## Completed Actions

## National Oceanic and Atmospheric Administration (NOAA)

**96. FISHERIES IN THE WESTERN PACIFIC; PELAGIC FISHERIES; SQUID JIG FISHERIES****Legal Authority:** 16 USC 1801 et seq

**Abstract:** This action designates pelagic squid as a management unit species under the Western Pacific Pelagics Fishery Management Plan and establishes permitting and reporting requirements.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	08/11/08	73 FR 46581
NPRM	08/28/08	73 FR 50751
Notice Comment Period End	10/10/08	
NPRM Comment Period End	10/14/08	
Final Action	11/21/08	73 FR 70600
Collection of Information Approval	09/04/09	74 FR 45756
Correction	03/03/10	75 FR 9531

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AS71**97. MODIFYING MAXIMUM RETAINABLE AMOUNTS (MRAS) FOR SELECTED GROUND FISH SPECIES CAUGHT BY THE NON-AMERICAN FISHING ACT TRAWL CATCHER PROCESSOR SECTOR****Legal Authority:** 16 USC 1801

**Abstract:** The National Marine Fisheries Service issues this action to amend regulations specifying the current interval of time allowed for determining the maximum retainable amount (MRA) of selected groundfish species that can be retained by non-American Fishery Act trawl catcher processors. This action would change MRA regulations located at 50 CFR 679.20(e) that establish the calculation of MRAs for groundfish species that are closed to directed fishing by increasing the interval of time each vessel in this sector would have to retain the MRA specified in regulation for several species in the Bering Sea and Aleutian Islands. This action is intended to promote the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area.

**Timetable:**

Action	Date	FR Cite
NPRM	02/13/09	74 FR 7209
NPRM Comment Period End	03/16/09	
Final Rule	12/10/09	74 FR 65503

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV32**98. INITIAL IMPLEMENTATION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT****Legal Authority:** 44 USC 3501 et seq; PL 109-479

**Abstract:** This action will implement, in part, the Western and Central Pacific Fisheries Convention (WCPFC) Implementation Act, which authorizes the Secretary of Commerce to promulgate regulations needed to carry out the obligations of the United States under the WCPFC. The action will include regulations applicable to owners and operators of U.S. vessels used to fish for highly migratory fish stocks in the western and central Pacific Ocean, possibly including requirements to, among others, obtain authorization to fish, carry position-fixing transmitters as part of a vessel monitoring system, accommodate observers from a regional observer program, report fishing activity, accept boarding and inspection by authorized inspectors of other members of the Commission, and prohibit transshipping at sea from purse seine vessels.

**Timetable:**

Action	Date	FR Cite
NPRM	05/22/09	74 FR 23965
NPRM Comment Period End	06/22/09	
Final Action	01/21/10	75 FR 3335
Correction	02/19/10	75 FR 7361

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## Completed Actions

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648–AV63**99. AMENDMENT 15B TO THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SNAPPER GROUPER FISHERY MANAGEMENT PLAN****Legal Authority:** 16 USC 1801

**Abstract:** Amendment 15B assesses the practicability of prohibiting the sale of recreationally caught fish; assesses the practicability of changes to the renewal period on commercial snapper grouper permits; assesses the practicability of allowing one-to-one transfers of commercial permits from an individual to a family-held corporation; implements a plan to monitor and assess bycatch; implements measures to minimize the impacts of incidental take on sea turtles and smalltooth sawfish; updates management reference points for golden tilefish; and defines allocation for snowy grouper and black sea bass.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	06/04/09	74 FR 26827
NPRM	06/30/09	74 FR 31225
Comment Period End	08/03/09	
NPRM Comment Period End	08/04/09	
Final Action	11/16/09	74 FR 58902

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648–AW12**100. FISHERIES IN THE WESTERN PACIFIC; WESTERN PACIFIC PELAGIC FISHERIES; AMENDMENT 18 TO THE PELAGICS FISHERY MANAGEMENT PLAN; SHALLOW-SET LONGLINE SWORDFISH FISHERY****Legal Authority:** 16 USC 1801

**Abstract:** Amendment 18 removes the annual limit on the number of fishing gear deployments (sets) for the Hawaii-based pelagic longline fishery. The amendment also revises the current maximum limit on the number of physical interactions that occur annually between loggerhead sea turtles and vessels registered for use under Hawaii longline limited access permits while shallow-setting. Other measures currently applicable to the fishery remain unchanged. Amendment 18 is intended to increase opportunities for the shallow-set fishery to sustainably harvest swordfish and other fish species, without jeopardizing the continued existence of sea turtles and other protected resources.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	03/18/09	74 FR 11518
Notice of Availability Comment Period End	05/18/09	
NPRM	06/19/09	74 FR 29158
NPRM Comment Period End	08/03/09	
Final Action	12/10/09	74 FR 65460
Correction—Final Action	01/08/10	75 FR 1023

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648–AW49**101. HALIBUT CHARTER VESSEL MORATORIUM****Legal Authority:** 16 USC 773 to 773k

**Abstract:** This action implements a moratorium on the entry of additional charter vessels into the guided sport fishery for Pacific halibut in waters of International Pacific Halibut

Commission regulatory areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). This moratorium limits the number of charter vessels that may participate in the guided sport fishery for halibut in these areas. NMFS would issue a moratorium permit to a licensed charter vessel fishing business owner based on his or her past participation in the charter vessel fishery for halibut and to a Community Quota Entity representing specific rural communities. All moratorium permit holders would be subject to limits on the number of permits they could hold and on the number of charter vessel anglers who could catch and retain halibut on the permitted charter vessel. This action is proposed to achieve the halibut fishery management goals of the North Pacific Fishery Management Council. The intended effect is to curtail growth of fishing capacity in the guided sport fishery for halibut.

**Timetable:**

Action	Date	FR Cite
NPRM	04/21/09	74 FR 18178
NPRM Comment Period End	06/05/09	
Final Rule	01/05/10	75 FR 554

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648–AW92**102. ATLANTIC HIGHLY MIGRATORY SPECIES; 2009 NORTH AND SOUTH ATLANTIC COMMERCIAL QUOTAS****Legal Authority:** 16 USC 1801 et seq

**Abstract:** This rule establishes the 2009 fishing season quotas for North and South Atlantic swordfish based on recent updated landings information and recommendations from the 2008 annual meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This rule is necessary to ensure that current swordfish quotas account for underharvests and reserve transfer from the 2008 fishing year, consistent with regulations at 50 CFR part 635 and ICCAT recommendations that establish

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## Completed Actions

the U.S. North and South Atlantic swordfish allocations. This rule may also include other minor regulatory clarifications.

**Timetable:**

Action	Date	FR Cite
NPRM	08/05/09	74 FR 39032
NPRM Comment Period End	09/04/09	
Final Rule	12/16/09	74 FR 66585

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AX07

**103. AMENDMENT 29 TO THE FISHERY MANAGEMENT PLAN FOR REEF FISH RESOURCES OF THE GULF OF MEXICO**

**Legal Authority:** 16 USC 1801

**Abstract:** Grouper and tilefish species in the Gulf of Mexico are managed under the reef fish fishery management plan. Past management practices under the plan have contributed to overcapitalization in these fisheries, which the Council now seeks to address. The amendment creates an individual fishing quota (IFQ) program to further control effort in the commercial grouper and tilefish fisheries in the Gulf of Mexico. The IFQ program was supported by over 80 percent of all eligible fishermen voting in a referendum for the IFQ program. The proposed rule would implement the IFQ program, establish design elements for the program, and allow consolidation of commercial permit landings history through permit stacking.

**Timetable:**

Action	Date	FR Cite
NPRM	04/30/09	74 FR 20134
NPRM Comment Period End	06/15/09	
Final Rule	08/31/09	74 FR 44732
Supplemental NPRM	12/10/09	74 FR 65500
Supplemental NPRM Comment Period End	01/11/10	

Action	Date	FR Cite
Second Final Rule	03/01/10	75 FR 9116
Final Rule Effective	03/31/10	

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AX39

**104. WESTERN AND CENTRAL PACIFIC FISHERIES FOR HIGHLY MIGRATORY SPECIES; IMPLEMENTATION OF THE LONGLINE CATCH LIMITS ADOPTED AT THE FIFTH SESSION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION**

**Legal Authority:** 16 USC 6901 et seq

**Abstract:** This rule implements the decisions adopted at the Fifth Session of the Western and Central Pacific Fisheries Commission (Commission) to reduce or otherwise control the fishing mortality rate from longline fishing of bigeye tuna and potentially other highly migratory fish species in the Western and Central Pacific Ocean. Pursuant to the Western and Central Pacific Fisheries Convention Implementation Act, the Secretary of Commerce is authorized to implement regulations to carry out the obligations of the United States under the Western and Central Pacific Fisheries Convention (Convention), including the implementation of Commission decisions. At its Fifth Regular Session, in December 2008, the Commission adopted specific catch limits in longline fisheries for certain highly migratory fish species in the Convention's area of application for 2009, 2010, and 2011. This rule fulfills the international obligations of the United States regarding these catch limits. Moreover, this rule could establish a framework for implementing future Commission decisions of a similar nature.

**Timetable:**

Action	Date	FR Cite
NPRM	07/08/09	74 FR 32521

Action	Date	FR Cite
NPRM Comment Period End	08/07/09	
Final Rule	12/07/09	74 FR 63999

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AX59

**105. FISHERIES OFF WEST COAST STATES; PACIFIC COAST GROUND FISH FISHERY; DATA COLLECTION FOR THE TRAWL RATIONALIZATION PROGRAM**

**Legal Authority:** 16 USC 1801

**Abstract:** NMFS plans to collect data to support implementation of a future trawl rationalization program under the Pacific Coast Groundfish Fishery Management Plan (FMP). NMFS may collect ownership information from all potential participants in the trawl rationalization program. In addition, NMFS is notifying potential participants on notice that the agency intends to use the Pacific States Marine Fisheries Commission's Pacific Fisheries Information Network (PacFIN) and the NMFS, Northwest Fisheries Science Center's Pacific whiting observer (NORPAC) databases to determine initial allocation of quota share for the trawl rationalization program.

**Timetable:**

Action	Date	FR Cite
NPRM	10/16/09	74 FR 47545
NPRM Comment Period End	10/16/09	
Final Action	01/29/10	75 FR 4684
Final Action Effective	03/01/10	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115  
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## DOC—NOAA

## Completed Actions

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RIN: 0648–AX98

**106. AMENDMENT 10 TO THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY MANAGEMENT PLAN****Legal Authority:** 16 USC 1801 et seq

**Abstract:** The purpose of Amendment 10 is to: (1) Develop a rebuilding program that allows the butterfish stock to rebuild in the shortest amount of time possible (but not to exceed ten years) and permanently protects the long-term health and stability of the rebuilt stock; (2) minimize bycatch and the fishing mortality of unavoidable bycatch, to the extent practicable, in mackerel, squid, and butterfish (MSB) fisheries; and (3) minimize the race to fish and promote efficient use of fishing capital in Loligo and Illex fisheries while providing a means for the industry to proactively engage in resource governance and to provide greater flexibility in developing management measures that fit localized needs through the development of sectors in the Loligo and Illex fisheries.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	07/13/09	74 FR 33986
NPRM	09/03/09	74 FR 45597
NPRM Comment Period End	10/19/09	
Final Action	03/11/10	75 FR 11441
Final Action Effective	04/12/10	

**Regulatory Flexibility Analysis****Required:** Yes

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RIN: 0648–AY00

**107. FISHING RESTRICTIONS IN THE LONGLINE AND PURSE SEINE FISHERIES IN THE EASTERN PACIFIC OCEAN IN 2009, 2010, AND 2011****Legal Authority:** 16 USC 951–961 ; 16 USC 971 et seq

**Abstract:** NMFS is proposing regulations under the Tuna Conventions Act of 1950 to implement

a resolution adopted by the Inter-American Tropical Tuna Commission (IATTC Resolution C-09-01). That resolution requires that the United States restrict the catch of bigeye tuna in the longline fishery and the effort in the purse seine fishery in the eastern Pacific Ocean in each of the years 2009, 2010, and 2011 to prevent overfishing of bigeye and yellowfin tuna. First, NMFS would implement a 500 metric ton (mt) catch limit on bigeye tuna caught by longline vessels greater than 24 meters in length in the IATTC Convention Area in 2009, 2010, and 2011. Second, NMFS would prohibit purse seine vessels of class size 4-6 (carrying capacity greater than 182 metric tons) from fishing for yellowfin, bigeye, and skipjack tunas in the IATTC Convention Area for a period of 59 days in 2009, 62 days in 2010, and 73 days in 2011. Notwithstanding this closure, purse seine vessels of class size 4 (between 182 and 272 mt carrying capacity) may make a single fishing trip of up to 30 days during the closed period. Third, class size 4-6 purse seine vessels would be prohibited from fishing for yellowfin, bigeye, and skipjack tunas between 96° and 100° W. longitude and between 4° N. and 3° S. latitude from September 29 to through October 29 for 2009, 2010, and 2011. And lastly, class size 4-6 purse seine vessels would continue to be required to retain all tuna caught unless it is unfit for human consumption for reasons other than size (which continues a long-term requirement).

**Timetable:**

Action	Date	FR Cite
NPRM	10/19/09	74 FR 53455
NPRM Comment Period End	11/09/09	
Final Rule	11/23/09	74 FR 61046

**Regulatory Flexibility Analysis****Required:** Yes

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RIN: 0648–AY08

**108. 2010 ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES****Legal Authority:** 16 USC 1801

**Abstract:** NMFS would implement specifications for the 2010 fishing year for Atlantic mackerel, squid, and butterfish (MSB). The intent of this action is to fulfill this requirement and to promote the development and conservation of the MSB resources.

**Timetable:**

Action	Date	FR Cite
NPRM	11/12/09	74 FR 58234
NPRM Comment Period End	12/14/09	
Final Action	02/03/10	75 FR 5537
Final Action Effective	03/05/10	

**Regulatory Flexibility Analysis****Required:** Yes

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RIN: 0648–AY13

**109. • 2010 PACIFIC HALIBUT FISHERIES; CATCH SHARING PLAN****Legal Authority:** 16 USC 1801

**Abstract:** NMFS takes this action to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes tribal regulations and the sport fishery allocations and management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, and to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries.

**Timetable:**

Action	Date	FR Cite
NPRM	02/04/10	75 FR 5745

## DOC—NOAA

## Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	02/19/10	
Final Action	03/18/10	75 FR 13024
Final Action Effective	04/19/10	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AY31**110. HARBOR PORPOISE TAKE REDUCTION PLAN REGULATIONS****Legal Authority:** 16 USC 1361 et seq

**Abstract:** The National Marine Fisheries Service is taking this action to reduce the number of harbor porpoise taken in sink gillnet fisheries in the Gulf of Maine and Mid-Atlantic. The Harbor Porpoise Take Reduction Plan of 1999 implemented measures to reduce the incidental capture of harbor porpoises in sink gillnets to below the stock's Potential Biological Removal level (PBR). Measures included management areas in which deterrent

devices (pingers) are required on gillnets; gear modifications; and seasonal closures. Between 2001 and 2005, incidental takes of harbor porpoise showed an increasing trend, and currently takes exceed PBR. This action would implement measures developed through discussions with the Harbor Porpoise Take Reduction Team, which was reconvened in 2007, when it was clear that existing measures were not sufficient to keep porpoise bycatch to below PBR. For the Gulf of Maine, this action would expand pinger use in Massachusetts Bay to include November; establish Stellwagen Bank Management Area, requiring pingers from November-May; establish Coastal Gulf of Maine Consequence Closure Area and require closure in October and November only if, after the most current two years, the average bycatch rate exceeds the trigger rate of .031, identified from observed compliant boats from the Mid-Coast, Massachusetts Bay, and Stellwagen Bank Management Areas; create Southern New England Management Area (includes current Cape Cod South Management Area); require pingers from December-May; establish Cape Cod South Expansion and Eastern Cape Cod Consequence Closure Areas; and require closure from February-April only if, after the most current two

years, the average bycatch rate exceeds the trigger rate of 0.023, identified from observed compliant vessels fishing in the Southern New England Management Area. For the Mid Atlantic, this action would establish Mudhole South Management Area; close from February 1-March 15; and modify the tie-down requirement.

**Timetable:**

Action	Date	FR Cite
NPRM	07/21/09	74 FR 36058
Correction	08/10/09	74 FR 39910
NPRM Comment Period End	08/20/09	
Final Action	02/19/10	75 FR 7383
Final Action Delay of Effective Date	03/17/10	75 FR 12698
Final Action Effective	03/22/10	
Final Action Delay of Effective Date End	09/15/10	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AW51**Department of Commerce (DOC)  
Patent and Trademark Office (PTO)****Proposed Rule Stage****111. • REVISION OF USPTO FEES FOR FISCAL YEAR 2011**

**Legal Authority:** 35 USC 41; 35 USC 119 and 120; 35 USC 132(b) and 376; PL 109-383; PL 110-116; PL 110-137; PL 110-149; PL 110-161; PL 110-5; PL 110-92

**Abstract:** The United States Patent and Trademark Office (USPTO) is taking this action to adjust certain patent and trademark fee amounts set in the aggregate to recover the estimated cost to the USPTO for processing activities and services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the USPTO.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	

Action	Date	FR Cite
NPRM Comment Period End	07/00/10	
Final Action	10/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0651-AC43**112. • REVISION OF USPTO FEES FOR FISCAL YEAR 2012**

**Legal Authority:** 35 USC 41; 35 USC 119 and 120; 35 USC 132(b) and 376; PL 109-383; PL 110-116; PL 110-137;

PL 110-149; PL 110-161; PL 110-5; PL 110-92

**Abstract:** The United States Patent and Trademark Office (USPTO) is taking this action to adjust certain patent and trademark fee amounts set in the aggregate to recover the estimated cost to the USPTO for processing activities and services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the USPTO.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/10	
NPRM Comment Period End	02/00/11	
Final Action	06/00/11	
Final Action Effective	07/00/11	

**Regulatory Flexibility Analysis****Required:** Yes

## DOC—PTO

## Proposed Rule Stage

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**Department of Commerce (DOC)**  
**Patent and Trademark Office (PTO)**

## Final Rule Stage

**113. • INTERIM INCREASE ON  
PATENT FEES FOR FISCAL YEAR  
2011**

**Legal Authority:** 35 USC 41; 35 USC 119 and 120; 35 USC 132(b); 35 USC 376; PL 109–383; PL 110–116; PL 110–137; PL 110–149; PL 110–161; PL 110–5; PL 110–92

**Abstract:** The United States Patent and Trademark Office (USPTO) is proposing an interim increase on certain patent

fees to fund the requirements for putting the USPTO on a sustainable path to fund agency operations, reduce patent inventory and pendency, and invest in information technology.

**Timetable:**

Action	Date	FR Cite
Final Action	10/00/10	

**Regulatory Flexibility Analysis  
Required:** Yes

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**RIN:** 0651–AC42

**Department of Commerce (DOC)**  
**Patent and Trademark Office (PTO)**

## Completed Actions

**114. EXAMINATION OF PATENT  
APPLICATIONS THAT INCLUDE  
CLAIMS CONTAINING ALTERNATIVE  
LANGUAGE**

**Legal Authority:** 35 USC 2(b)(2)

**Abstract:** The U.S. Patent and Trademark Office (Office) is considering revising the rules of practice to address Markush-type and other claims written so as to claim an invention in the alternative. The search and examination of Markush-type and other claims written in the alternative generally consume a disproportionate amount of Office resources as compared to other types of claims, because these claims can encompass multiple independent and distinct inventions and determining the patentability of such a claim may require a separate examination of each of the alternatives within the claim. The Office anticipates that requiring applicants who choose this claim-drafting format to ensure a certain degree of relatedness among the members of a Markush group or the alternatives presented in the claims will allow the Office to do a better, more thorough, and reliable examination of Markush-type and other claims written in the alternative.

**Timetable:**

Action	Date	FR Cite
NPRM	08/10/07	72 FR 44992
NPRM Comment Period End	10/09/07	

Action	Date	FR Cite
Initial Regulatory Flexibility Analysis Comment Request	03/10/08	73 FR 12679
NPRM Comment Period End	04/09/08	
Withdrawn	01/25/10	

**Regulatory Flexibility Analysis  
Required:** Yes

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**RIN:** 0651–AC00

**115. FISCAL YEAR 2009 REVISION OF  
REQUEST FOR CONTINUED  
EXAMINATION, 18-MONTH  
PUBLICATION, AND OTHER  
MISCELLANEOUS COST-RECOVERY  
PATENT FEES**

**Legal Authority:** 35 USC 2(b)(2); 35 USC 41(d); 35 USC 132(b)

**Abstract:** The USPTO is taking this action to revise the rules of practice to adjust the fee or set a fee for certain processes and services for which the USPTO is required to set a cost-recovery fee. The USPTO is specifically adjusting the fee for a request for

continued examination, 18-month publication, and a certificate of correction (applicant's mistake) fee, and set a fee for requesting a corrected republication of a patent application publication. The rules of practice currently do not set a fee, or do not set a fee that recovers the USPTO's costs, for these processes or services. The USPTO is adjusting or setting these fee amounts such that they more accurately reflect the Office costs for these processes or services.

**Timetable:**

Action	Date	FR Cite
Withdrawn	01/25/10	

**Regulatory Flexibility Analysis  
Required:** Yes

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**RIN:** 0651–AC29

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